

House Judiciary Committee

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Testimony of Kathleen M. Schaefer, Parole and Corrections Consultant

Good morning, Chairman Condino and members of the Committee. My name is Kathleen Schaefer. I am the President of Professional Probation and Parole Consulting, Inc.

Allow me to provide information to the Committee regarding my background. I have worked in the Michigan Corrections field since 1976 where I began my career as a Prison Counselor. In my capacity as a prison counselor, I attended numerous parole board hearings with prisoners that were assigned to me. I was employed by the Michigan Department of Corrections for 26 years before I went into private practice as a corrections and parole consultant. I have worked in the correctional facilities, Special Alternative Incarceration (SAI) Bootcamp Aftercare and Detention facilities, and Probation and Parole Field Operations with the MDOC. I was a probation/parole agent in Wayne County assigned to caseload supervision and Manager of Specialized Programs for sex offenders and other high risk offenders in Wayne and Macomb Counties. I was also a national auditor for the American Correctional Association auditing correctional operations throughout the United States and Past President of the Michigan Corrections Association which is an organization of correctional professionals in Michigan.

I am familiar with alternative programs for offenders throughout the State of Michigan, and managed such MDOC programs including the Electronic Monitoring, Public Act 511 Specialized Supervision Units, Sex Offender Units, Aftercare Detention Facilities for probation violators and the Special Alternative Incarceration (SAI) Prisoner and Probation Bootcamp Aftercare programs.

For several years, I worked for the MDOC at Recorder's Court and was assigned to the Chief Judge, Dalton A. Roberson's Court on felony matters involving sentencing, sentencing guidelines, and adult probation and parole violations.

As it happens, I recently joined the CAPPS board but I am speaking today as an individual.

I appreciate this opportunity to talk to you. Since 2002, I have been working as a consultant and in numerous cases participated in the parole review process as a prisoner representative, present at the parole board interviews. This has given me a first-hand view of how the parole interview and review process is currently working. Having said that, I believe the legislation proposed is certainly necessary because there are now no protocols in place to ensure there is a check and balance within the system. What we have now is essentially a system of unfettered discretion of the parole board. They have absolute power with virtually no review or filter in place. The proposed legislation is really to create another filter for the system.

To begin, I would like to focus my remarks in three areas. First, on the importance of having a system where there are appropriate checks and balances. Secondly, that the system for parole considerations has a filter for review. Third, that based on my experience and observation, there is now a very narrow concentration of power that in essence leads to absolute power, in the hands of panels of three people. Except for lifers, a panel of three members will decide whether to release a prisoner on parole with two of three votes needed in favor, for parole to be approved. Only one board member conducts the prisoner interview and the other two panel members see no tape or transcript of it and therefore, depend on the interviewing member's judgment. In some cases, I have found the interviews are very short and rushed.

Regardless of corrective steps initiated by the prisoner or the documented progress or growth that has been demonstrated by the prisoner, prisoners are continued for additional 12 and 18 month terms without a rational or sufficiently detailed explanation of the decision. This leaves the prisoner confused and diminishes their hopes.

While board members take their jobs very seriously, we're all human. If a particular member has a predisposition about particular offenses or particular factors in a person's background or doesn't get the answers he or she wants from the prisoner, parole may well get denied based on the impression that board member conveys to his or her panel partner. As the system presently exists, there is no way to identify or correct errors or catch personal biases.

Our entire structure of government is to create a check and balance. What this legislation seeks to do is create a reasonable check and balance within the system.

I have personally observed the frustration that this engenders in the prisoner and their lack of hope.

I have seen many cases, from a review of the facts that it was never the intent of the sentencing judge that a prisoner be held as long as they have been. As one example in a recent case, the sentencing judge and prosecutor agreed to a downward departure at the sentence hearing because of the offender's cooperation with law enforcement and the psychological information that was documented in his profile, but the parole board decided to continue the prisoner for another 12 months for reasons that were factually inaccurate.

Now, what does this cost us? It costs the State of Michigan millions of dollars in housing and maintaining these people. It is counter-productive to the mission of the Michigan Corrections Department which is *not only to protect the public but also to provide the highest quality of service to the public, including the offenders under the Department's supervision and that activities will be conducted in a professional way which reflects positively on the MDOC.* At its most basic level the parole decision process we now have is unbalanced without any checks or oversight. The power of the parole board is absolute. This creates problems in the operations and maintenance of the correctional facilities; this leads to despair and frustration *for no good reason.*

While certainly people convicted of crimes should have to pay for their crimes, *it is the sentencing guidelines and the judge who decides what punishment is proportional.* Once people have served that punishment, they are entitled to a second chance unless they have failed to meet the guidelines for release or there is some objective evidence that they are currently dangerous. If you tell people they can earn their way out of prison, then do not tell them it does not matter how hard they work and rehabilitate themselves. *It creates an atmosphere where the parole process is perceived as unfair and on occasion is unfair.*

It is important for the prisoners to have the belief that they are getting a fair process. In the system we have now, there are no filters or checks and balances. If the parole board interviewer is predisposed for whatever reason, that is a very narrow concentration of so much power.

I am aware there is some concern about frivolous law suits, but by spelling out limited grounds on which appeals will be permitted, the bill will minimize those. Certainly when someone *who has a presumption of parole because of a high guideline score is not released*, their appeal cannot be characterized as frivolous. They might ultimately prevail, but the attempt cannot fairly be called frivolous.

In summary, the parole system as it presently exists has 1) no checks and balances; 2) does not have a filter for review of parole board decisions; and 3) creates absolute power in a very narrow base of individuals.

I hope my remarks are helpful and I urge the committee to support HB 4548. Thank you.